

NHS PAY REVIEW BODY

Consideration of Whether to Seek a Remit to Review the Pay Increase Agreed by the Parties for 2010/11

Introduction

1. The Review Body's remit for autumn 2009 results from the parties' three-year pay agreement for the period from April 2008 to March 2011, which was announced on 7 April 2008. The agreement specified pay increases and other changes to the Agenda for Change (AfC) pay scale for 2008/09, 2009/10 and 2010/11. For 2010/11, the agreement specified a headline pay increase of 2.25%, a flat-rate pay increase of £420 for the lowest 13 points of the pay scale, and some changes for pay bands 5 and 6¹. The full text of the agreement appears in Annex A.
2. In August 2008, The Department of Health, Scottish Government, Welsh Assembly Government, Northern Ireland Executive, NHS Employers and the Staff Side of the NHS Staff Council wrote to the Review Body Chair, outlining the role the parties had agreed the Review Body would play during the period of the agreement, as follows.

“The NHSPRB will continue to gather evidence throughout the period of this agreement. In the event that the NHSPRB receive and identify new evidence of a significant and material change in recruitment and retention and wider economic and labour market conditions, they may request a remit from the Secretary of State to review the increases set out in this agreement for 2009/10 and / or 2010/11.”

The full letter is reproduced in Annex B.

3. The pay uplift of 2.75% in 2008/09, as recommended in our *Twenty-Third Report*², was implemented in full. However, we were not consulted on the pay increases for 2009/10 or 2010/11 or on the terms under which the increases for these two years could be reviewed. Nonetheless, we agreed to undertake the work as specified in the remit at the request of the parties.
4. We received and analysed evidence from the parties in the autumn of 2008. We concluded in December 2008 that we would not seek a remit from the Secretary of State to review the pay increase contained in the agreement between the parties for 2009/10. We advised that we would undertake a

¹ Details of the three-year pay agreement are available from NHS Employers' website: http://www.nhsemployers.org/PayAndContracts/AnnualPayReview/PreviousPayRounds/2008-09PayRound/Pages/PayReview-08_09AwardV2.aspx The headline pay increases were 2.75% for 2008/09, 2.4% for 2009/10 and 2.25% for 2010/11. The total additional cost to the NHS paybill of the pay agreement, including these headline pay increases and other changes, was estimated by NHSE to be 2.75% for 2008/09, 2.54% for 2009/10 and 2.5% for 2010/11.

² NHSPRB, *Twenty-Third Report 2008*, TSO (Cm 7337), paragraph 7.34.

further review of all the available evidence and information in the autumn of 2009 to consider whether to seek a remit from the Secretary of State to review the pay increase contained in the agreement between the parties for 2010/11³.

Our Approach

5. We have been asked to make a judgment about whether there is new evidence of “a significant and material change in recruitment and retention and wider economic and labour market conditions”. In the event that we find such evidence, we have then to decide whether to seek a remit from the Secretary of State to review the pay increase for 2010/11 that was contained in the parties’ three-year agreement.
6. We have received both oral and written evidence and information: the parties that submitted evidence and information are listed in Annex D. We would like to thank the parties for their evidence and information. We have also drawn on other sources of data available to us as of 8 December 2009. Our analysis of recruitment and retention and wider economic and labour market conditions is set out below. A high-level summary of the evidence and information we have considered in making our assessment is in Annex C.
7. In a separate section of this paper, we have responded to proposals for new national recruitment and retention premia (RRPs) from Unite for pharmacists and from UCATT for building craft workers.
8. We are not making any additional comments on matters raised in our *Twenty-Fourth Report*, although we shall continue to keep those matters under review. We will not be submitting a formal report in spring 2010.

Conclusions

9. It has not been an easy task for this Review Body to review matters that are the product of detailed negotiation between the parties. We have been invited to consider whether the criteria for review, set out in paragraph 2 above, have been met.
10. It is clear that there has been “a significant and material change” in wider economic and labour market conditions since the pay agreement was announced on 7 April 2008 and since we last commented on this issue in December 2008. The available statistics do not, however, demonstrate “a significant and material change” in recruitment and retention in the NHS. The parties’ criteria that there should be “new evidence of a significant and material change in recruitment and retention and wider economic and labour market conditions” have not, therefore, been met. It follows that we cannot seek a remit from the Secretary of State to review the pay increase contained in the agreement between the parties for 2010/11.

³ NHSPRB, *Twenty-Fourth Report 2009*, TSO (Cm 7646), Appendix B, paragraph 4.8. Originally published in a letter from the Review Body Chair to Ministers, NHS Employers and the Staff-Side Chair of the NHS Staff Council in December 2008.

11. Our decision not to seek a remit does not mean, however, that we endorse the increase set out in the parties' agreement. We were not consulted about the pay increase for April 2010 (or that in 2009): we were invited to consider whether the criteria for review had been met.
12. Nor were we consulted about the review mechanism itself. It was, in our view, unduly rigid. It set high hurdles for any review and provided very limited discretion for us to consider whether a review is necessary, even in the sharply changed economic circumstances that currently exist. It has not, for example, allowed us to consider the full range of issues, such as affordability, and the impact on employment relations of reviewing the April 2010 increase, a factor that was given considerable weight by the parties during oral evidence. We also regard the two stage nature of the process, requiring us to seek a remit from the Secretary of State to review the increase, as cumbersome and protracted. We note, in contrast, that the recent multi-year pay award covering teachers' pay contained a review clause without conditions, which has operated satisfactorily⁴.
13. We appreciate and accept that parties may wish to reach their own agreements outside the Review Body process. However, we would request that in future, if parties wish to allocate the Review Body a role under their agreements, they consult the Review Body at an appropriate time as to the nature of that role.
14. We set out in paragraphs 15 to 55 below our analysis of recruitment and retention and wider economic and labour market conditions.

Recruitment and Retention

Background

15. In spring 2008, shortly before the three-year pay agreement was announced, our analysis suggested no overall problems with NHS recruitment and retention, notwithstanding some difficulties with specific professional groups and in certain regions⁵.
16. In December 2008, when we last reviewed recruitment and retention, the available statistics indicated that overall the situation appeared healthy, with a stable workforce and historically low three-month vacancy rates⁶. Total vacancy rates⁷ in the NHS appeared to be at a similar level to those in the

⁴ School Teachers' Review Body (2009) *Eighteenth Report Part Two*, TSO (Cm 7652), paragraphs 1.12 – 1.16.

⁵ Op.cit. *Twenty-Third Report 2008*, Chapter 2.

⁶ Op.cit. *Twenty-Fourth Report 2009*, Appendix B, paragraph 4.3. Three-month vacancy rates are defined as vacancies to which NHS organisations were actively recruiting, which had been vacant for three months or more on the date of the survey, as a percentage of staff in post plus vacancies (i.e. the total number of available posts).

⁷ Total vacancy rates are defined as all vacancies to which NHS organisations were actively recruiting on the date of the survey, as a percentage of staff in post plus vacancies (i.e. the total number of available posts).

wider economy; and the leaving rate remained stable at a level lower than the rest of the public sector and the wider economy⁸.

17. Results from staff surveys conducted in 2007 in England and Wales showed some slight deterioration in key indicators of morale and motivation, and we highlighted concerns about staff perceptions of work pressure⁹.

Staff in Post

18. NHS non-medical staffing levels for the UK as a whole have increased to the highest level on record (Annex C, Figures 1 and 2). In England and Scotland, the non-medical workforce – including qualified, clinical occupations – has continued to grow; the picture is more mixed in Wales and Northern Ireland, where re-organisation is underway.

Vacancies

19. Three-month vacancy rates remain low: at or below 1% for all main NHS staff groups in all four countries (Annex C, Figure 3). In England, they have increased slightly for some clinical occupations, but from a low base, and they remain at low levels. In Wales, Scotland and Northern Ireland, three-month vacancy rates have decreased.
20. Total vacancy rates increased for most of the main staff groups in England between March 2008 and March 2009, but decreased in Scotland and Northern Ireland. Vacancy rates in the NHS were, in general, higher than in the wider UK economy, where vacancy ratios have decreased substantially since October 2008 (Annex C, paragraph 4).
21. In England, there was a degree of variation within total and three-month vacancy rates according to occupational category and geographical location: for example, vacancy rates were higher for some healthcare science professions, pharmacists and radiographers¹⁰; and higher in general in London and East of England Strategic Health Authorities¹¹.

Turnover

22. The rate at which non-medical staff left the NHS in England decreased by 1.6 percentage points between 2006/07 and 2007/08, to 8.5% (Annex C, Figure 4); the joining rate increased by 2.6 percentage points to 11.6%. In Northern Ireland, the situation was stable, with the leaving rate and joining rate

⁸ Op.cit. *Twenty-Fourth Report 2009*, Appendix B, paragraphs 2.5 – 2.7.

⁹ Ibid. Appendix B, paragraph 2.8.

¹⁰ NHS Information Centre for Health and Social Care, *Vacancies Survey March 2009*. Some healthcare science professions, pharmacists and radiographers, along with speech and language therapists, orthoptists, theatre nurses and nurses in intensive care units, are also included on the Migration Advisory Committee's shortage occupation list: MAC (2009) *Skilled, Shortage, Sensible: Second Review of the Recommended Shortage Occupation Lists for the UK and Scotland: Autumn 2009*. The lists comprise occupations for which, in the MAC's view, there are shortages that can sensibly be filled by facilitating the recruitment of non-European Economic Area (EEA) migrants.

¹¹ Op.cit. NHS Information Centre, *Vacancies Survey March 2009*.

decreasing slightly for most staff groups, to 7.4% and 7.2% respectively in 2008/09 (Annex C, Figure 5). Data are not available for Wales and Scotland.

23. We have previously compared the leaving rates in the NHS in England and Northern Ireland with the wider economy¹². The data source that we used has not since been updated, but another source suggests that the leaving rate in 2007/08 for our remit group in England (8.5%, Annex C, Figure 4) and Northern Ireland (8.1%, Annex C, Figure 5) remained well below the leaving rate in 2008 in the wider public sector in the UK (13.5%) and the whole economy in the UK (17.3%)¹³.

Morale and Motivation

24. Responses to the Care Quality Commission's staff surveys conducted in England in autumn 2008 were, on the whole, slightly more positive than for 2007 (Annex C, Figure 6).
25. Since we last considered these matters, NHS Scotland has conducted its biennial survey of NHS staff¹⁴. Responses were, overall, more positive in 2008 than in 2006.
26. We previously suggested that the Staff Side should commission a survey of staff¹⁵. This has not been done in a co-ordinated fashion, but Unison submitted a member survey about pay and working conditions¹⁶ and RCN submitted a survey of nurses' employment and morale¹⁷.

Wider Economic and Labour Market Conditions

Overview

27. In considering whether there has been "a significant and material change" in wider economic and labour market conditions, we have taken stock of conditions and forecasts at the time that the three-year pay agreement was announced in April 2008. We have referred to our analysis of December 2008¹⁸ and considered recent developments and data up to and including 8 December 2009.
28. In December 2008, we noted that the economic and labour market situation had changed significantly since the three-year pay agreement was announced¹⁹. Since we last reported, economic and labour market conditions have deteriorated further. The UK has been experiencing a long and deep

¹² Confederation of British Industry (CBI), *CBI / AXA Absence and Labour Turnover Survey 2008*.

¹³ Chartered Institute of Personnel and Development (CIPD), *Recruitment, Retention and Turnover: Annual Survey Report 2008*.

¹⁴ ORC International (2009) *NHSScotland Staff Opinion Survey 2008*, Scottish Government.

¹⁵ Op.cit. *Twenty-Fourth Report 2009*, paragraph 4.21.

¹⁶ Unison, *Unison Member Survey 2009*, submitted as evidence to NHSPRB.

¹⁷ Royal College of Nursing (RCN), *Past Imperfect, Future Tense: Nurses' Employment and Morale in 2009*, submitted as evidence to NHSPRB.

¹⁸ Op.cit. *Twenty-Fourth Report 2009*, Appendix B.

¹⁹ Ibid. Appendix B, paragraphs 3.1 – 3.10 and 4.4.

recession, with output (GDP) now almost 6% below the level in the first quarter of 2008 having fallen for six consecutive quarters (Annex C, Figure 7)²⁰.

29. The economic and financial crisis that has unfolded over the past two years has caused a dramatic deterioration in the UK's public finances, with public sector borrowing set to peak this year at a level not seen since the Second World War, and public sector indebtedness set to climb to levels not seen since the late 1960s²¹.
30. This has prompted a two-pronged fiscal response by the Government, announced in the Pre-Budget Report 2008 and Budget 2009: a short-term fiscal stimulus package, including a reduction in VAT, taking effect in 2008/09 and 2009/10, designed to help limit the depth and duration of the recession; followed by a long-term fiscal tightening, starting in 2010/11, designed to return government borrowing to a sustainable level and to halt and then begin to reverse the large increase in public sector indebtedness²².
31. Monetary policy has loosened further since we last reported. Having voted to maintain interest rates²³ at 5% from April 2008, the Bank of England's Monetary Policy Committee (MPC) began cutting rates from October 2008 to reach 2% in December 2008, culminating in an historic low of 0.5% in March 2009. At that point, the MPC introduced a new tool, quantitative easing, to further boost demand, and started a programme of asset purchases, which continued to November 2009, bringing the total announced to £200 billion, whilst maintaining interest rates at 0.5%²⁴.
32. A number of indicators suggest that economic activity has begun to stabilise and a recovery in output is expected, driven by the considerable stimulus from the recent easing in monetary and fiscal policy and from the depreciation of sterling²⁵. Though the path out of recession is more than usually uncertain, the latest GDP forecasts suggest a pickup in GDP growth to 1.2% by the end of 2010²⁶.

Inflation

33. When the three-year pay agreement was announced in April 2008, CPI was 2.5%, RPI was 4.1%; and the Bank of England CPI mode projection based on market interest rate expectations was 2.2% for the fourth quarter of 2009 and

²⁰ Office of National Statistics (ONS), *UK Output, Income and Expenditure, 3rd Quarter 2009*.

²¹ Chote, R., Crawford R., Emmerson, C. and Tetlow, G. (September 2009) *Britain's Fiscal Squeeze: the Choices Ahead*, Institute of Fiscal Studies (IFS Briefing Note BN87).

²² Ibid.

²³ Interest rates highlighted in paragraph 31 refer to the official Bank Rate paid by the Bank of England on commercial bank reserves.

²⁴ Bank of England monthly news releases, most recently (5 November 2009) *Bank of England Maintains Bank Rate at 0.5% and Increases Size of Asset Purchase Programme by £25 Billion to £200 Billion*.

²⁵ Bank of England, *Inflation Report, November 2009*.

²⁶ HM Treasury, *Forecasts for the UK Economy: A Comparison of Independent Forecasts, November 2009*.

2.2% for the fourth quarter of 2010²⁷. The HMT median of independent forecasts of inflation for the fourth quarter of 2009 was 2% (CPI) and 2.4% (RPI)²⁸.

34. In December 2008, we noted that outturns for inflation were much higher than had been anticipated, though forecasts suggested that inflation would fall rapidly in 2009²⁹.
35. Inflation has not taken the path that was forecast at the time of the parties' pay agreement. The annual rate of inflation on the CPI measure grew to a 16-year high of 5.2% in September 2008. On the RPI measure, inflation grew to a peak of 5% in July and September 2008 (Annex C, Figure 8). Growth in prices then slowed, and by October 2009 the annual rate of inflation was 1.5% on the CPI measure, below the 2% target set by the Government. Since March 2009, the annual rate of inflation on the RPI measure has been negative: in October 2009 it was minus 0.8%.
36. The Bank of England's latest central projection for CPI is for it to rise to 1.9% in the fourth quarter of 2009, then to continue to rise to 2.7% in the first quarter of 2010, before falling back gradually to 1.1% in the first quarter of 2011³⁰. In the medium term, the Bank of England expects CPI to remain below the target of 2%.
37. The Treasury's most recent comparison of independent forecasts suggests that commentators expect RPI to become positive within the next few months, as interest rate cuts drop out of the annual change in the index. The average of the forecasts suggests that RPI could be 2.8% in the last quarter of 2010³¹. Individual forecasts range from 1.4% to 4.4%, so this average should be treated with some caution.
38. It therefore seems to be the case that during the period of the pay agreement thus far, NHS staff – and the whole UK population – initially experienced higher increases in living costs than were expected when the agreement was made, but more recently have had lower increases than were forecast and reductions in some living costs.

Employment and Unemployment

39. At the time of the parties' pay agreement in April 2008, employment was at an historically high level and commentators were suggesting a tightening in the UK labour market as a whole³². In December 2008, we noted that the labour

²⁷ Bank of England, *Inflation Report, February 2008*. Central (mode) inflation projection for CPI based on market interest rate expectations.

²⁸ HM Treasury, *Forecasts for the UK Economy: A Comparison of Independent Forecasts, March 2008*.

²⁹ Op.cit. *Twenty-Fourth Report 2009*, Appendix B, paragraph 3.8.

³⁰ Op.cit. Bank of England, *Inflation Report, November 2009*. Central (mode) inflation projection for CPI based on market interest rate expectations and £200 billion asset purchases.

³¹ Op.cit. HM Treasury, *Forecasts for the UK Economy, November 2009*.

³² HM Treasury (2008) *Forecasts for the UK Economy, March 2008*.

market was weakening, with the employment rate declining, the number of vacancies decreasing and unemployment rising³³.

40. The latest statistics show that the labour market has indeed significantly weakened since the time of the pay agreement, and since last year: the employment rate has fallen to 72.5%, while the ILO unemployment rate has risen to 7.8% (Annex C, Figure 9). The rate of deterioration seems to have slowed in recent months, but falls in employment and rises in unemployment are likely to continue for some time³⁴, since they are generally thought to lag economic growth and take time to recover once economies come out of recession.

Pay Settlements

41. When we last commented on the matter in December 2008, we noted that median pay settlements in the whole economy had been around 3.5% since late 2006, with lower and upper quartiles around 3% and 4% over the same period³⁵.

42. In the last year, pay settlements have fallen significantly on all measures. The IRS whole-economy median settlement has fallen from 3.8% in late 2008 to 1% in the three months to April 2009, and 1.2% in the three months to October 2009 (Annex C, Figure 10), although the latter figure should be treated with caution³⁶. The IDS median was at 2% in the same period, having fallen from a peak of 3.7% at the end of 2008³⁷.

43. In the twelve months to October 2009, whilst there have been a number of pay freezes, these appear to have been concentrated in certain sectors of the economy, for example hotels, the media, manufacturing and engineering. Settlements for employees in organisations that are not freezing pay have tended to be between 2% and 3.5%³⁸.

44. Looking forward, IRS has suggested that the whole-economy median settlement could rise to 2% in the year from August 2009 to September 2010³⁹, although more than a quarter of employers reported that they could not commit to giving employees a pay rise in that future period, which suggests that many may freeze pay if business conditions fail to improve. A separate survey by the CBI suggests that "extreme pay moderation will remain

³³ Op.cit. *Twenty-Fourth Report 2009*, Appendix B, paragraph 3.10.

³⁴ Op.cit. HM Treasury, *Forecasts for the UK Economy, November 2009*.

³⁵ Op.cit. *Twenty-Fourth Report 2009*, Appendix B, paragraph 3.2.

³⁶ Industrial Relations Services (2009) *IRS Employment Review 934*. The IRS whole-economy median settlement for the three months to October 2009 is based on a relatively small number of pay settlements because the summer is a quiet period for pay awards (over 70% of pay reviews are carried out between January and April each year).

³⁷ Incomes Data Services (2009) *IDS Pay Report 1038*. The IDS whole-economy median settlement for the three months to October 2009 is based on a relatively small number of pay settlements because the summer is a quiet period for pay awards.

³⁸ Ibid.

³⁹ IRS (2009) *IRS Employment Review 932*.

the norm”, with 47% of employers planning a pay freeze to apply at their next pay review⁴⁰.

45. In this context, it is clear that the basic pay award of 2.4% for the NHSPRB remit group in April 2009 compared favourably with settlements in the wider economy, and the 2.25% uplift from April 2010 is likely to be above the economy-wide median settlement.

Earnings

46. In the period leading up to the announcement of the three-year pay agreement in April 2008, the Average Earnings Index (AEI) showed growth of 3.4% in the public sector and 4% in the private sector⁴¹.

47. In December 2008 we noted that headline average earnings growth in the public sector was beginning to exceed that in the private sector, but we saw no evidence that the Agenda for Change (AfC) pay structure was becoming out of line with the wider UK labour market⁴².

Economy-wide Earnings Growth

48. In the last year, headline average earnings growth in the public sector has continued to exceed growth in the private sector, with average annual earnings growth in the three months to September 2009 at 2.8% and 0.8% in the public and private sector respectively⁴³. In the private sector, there was a steep fall in growth from the end of 2008 and a period of contraction in the spring of 2009, largely due to falling bonus payments in financial services (Annex C, Figure 11). This pattern was not seen in the public sector.

49. The most recent Treasury average of new independent forecasts of increases in average earnings for 2010 was 2.1%⁴⁴, suggesting that earnings growth will remain subdued over the next year.

Earnings of the NHSPRB Remit Group in England

50. In considering the earnings - and growth in earnings - of NHS staff, it is relevant to note the diversity of our remit group, which includes a wide range of occupations, with basic salaries ranging from £13,233 to £95,333⁴⁵ and median total earnings ranging from £17,800 (healthcare assistants and other support staff) to £45,600 (managers) (Annex C, Figure 12).

51. In England, growth in median total earnings between the second quarter of 2008 and the second quarter of 2009 ranged from 2.8% (NHS maintenance

⁴⁰ CBI (November 2009) *Easing Up? CBI/Harvey Nash Employment Trends Survey 2009*.

⁴¹ Office of National Statistics (ONS), *Labour Market Statistics, March 2008*. The figures cited in paragraph 46 have been revised by ONS from its original, provisional estimates in March 2008, which were 3.5% for the public sector and 3.8% for the private sector.

⁴² Op.cit. *Twenty-Fourth Report 2009*, Appendix B, paragraphs 3.3 – 3.5.

⁴³ ONS, *Labour Market Statistics, November 2009*.

⁴⁴ Op.cit. HM Treasury, *Forecasts for the UK Economy, November 2009*.

⁴⁵ Agenda for Change (AfC) pay spine values for April 2009, point 1 and point 55.

and works staff) to 7.4% (qualified ambulance staff outside London)⁴⁶ (Annex C, Figure 12). Earnings growth for qualified nurses in this period was 6.5%, in comparison with 4.7% for 2007/08.

52. Growth in median basic salary (Annex C, Figure 13)⁴⁷ between 2008 and 2009 ranged from 5% (qualified AHPs) to 9.9% (managers). Two pay increases were implemented in this period (2.75% in July 2008 and 2.4% in April 2009), which cumulatively increased the value of Agenda for Change (AfC) spine points by approximately 5.3%. Growth in median basic salary is also influenced by factors such as incremental pay progression and changes in the distribution of the workforce on AfC spine points.

Earnings of the NHSPRB Remit Group in the UK Relative to Other Employees

53. We have previously noted that the median earnings of our remit group have grown at a faster pace than those of the wider economy, and have exceeded the whole-economy average since 2004⁴⁸.

54. New data for 2009 show that this trend has continued, with growth in median gross weekly pay for our remit group at 3.7% between April 2008 and April 2009, compared to 2% for all employees, 1% in the private sector and 3.1% in the public sector (Annex C, Figures 14 and 15).

55. In the light of a likely above-average pay settlement for our remit group in April 2010 (paragraph 45 above), along with assumed pay drift⁴⁹, we expect that growth in median earnings for our remit group will continue to exceed that in the wider economy. We will continue to monitor the position of our remit group relative to the wider labour market.

⁴⁶ See, however, footnote 40 in Annex C.

⁴⁷ Basic salary excludes items such as overtime, location allowances, recruitment and retention premia (RRPs) and protected pay.

⁴⁸ Op.cit. *Twenty-Fourth Report 2009*, Appendix B, paragraph 3.5.

⁴⁹ Op.cit. *Twenty-Third Report 2008*, paragraph 6.40.

Consideration of Proposals for New National Recruitment and Retention Premia (RRPs)

Introduction

56. Our current remit arises from our responsibilities under the Agenda for Change (AfC) Agreement⁵⁰, which specified arrangements for the introduction of new national recruitment and retention premia (RRPs), including our role. Since the Agreement, we have offered the parties regular opportunities to make proposals for new national RRPs, at the same time as submitting evidence on other pay matters. We have considered a number of proposals from bodies representing NHS staff.
57. In 2008, we agreed with the parties that should we consider that any proposals for new RRPs in 2008 or 2009 warranted further investigation or a formal recommendation, we would seek a remit from the Secretary of State. In the case of pharmacists we were not required to seek a remit, since pharmacists had been the subject of a previous remit⁵¹. In our *Twenty-Fourth Report* we made a formal recommendation that pharmacists in bands 6 and 7 should receive a short-term national RRP⁵².
58. This year, we have received proposals from Unite relating to pharmacists and from UCATT relating to building craft workers. In reaching conclusions on these specific cases, which are discussed in turn below, we have been guided by our general approach to the introduction of any new national RRPs, which is summarised in the following paragraphs.

Our Approach

59. The AfC Agreement and Handbook provide that new national recruitment and retention premia may be awarded :

“on a national basis to particular groups of staff on the recommendation of the Pay Review Body....where there are national recruitment and retention pressures. The Review Body.... must seek evidence or advice from NHS employers, staff organisations and other stakeholders in considering the case for any such payments. Where it is agreed that a recruitment and retention payment is necessary for a particular group the level of payment should be specified or, where the underlying problem is considered to vary

⁵⁰ Department of Health (December 2004) *Agenda for Change: Final Agreement*, Section 4 (Recruitment and Retention Premia) and Annex H (Guidance on the Application of Nationally Agreed Recruitment and Retention Premia). Now in Section 5 and Annex R of NHS Staff Council (2009) *NHS Terms and Conditions of Service Handbook (Amendment Number 13)*, Pay Circular (AforC) 1/2009.

⁵¹ The remit letter is reproduced in Annex B.

⁵² Op.cit. *Twenty-Fourth Report 2009*, paragraph 3.77.

*across the country, guidance should be given to employers on the appropriate level of payment.*⁵³.

60. We summarised our role under this provision in paragraph 4.19 of our *Twenty-First Report*:

*Recruitment and retention premia: “may be awarded **in future** on a national or local basis where there are recruitment and retention pressures, on a long or short-term basis. We....may recommend national recruitment and retention premia for our.....remit groups, (with local differentiation as necessary to reflect geographical variation in the underlying problem)*⁵⁴.

The parties did not dispute this interpretation of the AfC Agreement prior to or following our *Twenty-First Report*, and the Department of Health, NHS Employers and Unite confirmed, in their evidence for our *Twenty-Fourth Report*, that they shared it⁵⁵.

61. We have consistently stated that parties seeking to justify pay differentiation in respect of specific remit staff groups will need to provide robust evidence to support their case, and will also need to address the following points:

- why they consider that pay differentiation for the particular group is necessary;
- why they consider their objective(s) cannot be achieved by a route other than pay differentiation; and
- why they consider the level of any differentiation they propose, rather than a lesser amount, is appropriate to meet their objective(s)⁵⁶.

62. We have noted the judgment of the employment tribunal in *Hartley*, in which a number of points of relevance to the justification of pay differentiation were made⁵⁷.

63. We set out our interpretation of the provisions for national RRPs in the AfC Agreement in some detail in our *Twenty-Fourth Report*⁵⁸. In summary, we agree with the parties that the term “national” in the context of the provisions of the Agreement relating to RRPs means UK-wide. We do not, however, agree with the view of the Department of Health that, for a new national RRP to be recommended, we would have to be satisfied that there are problems across all employers in the UK⁵⁹. The argument that there must be problems across

⁵³ Op.cit. DH, *Agenda for Change: Final Agreement*, Section 4 and Annex H; and op.cit. NHS Staff Council, *NHS Terms and Conditions of Service Handbook*, Section 5 and Annex R.

⁵⁴ Review Body for Nursing and Other Health Professions, *Twenty-First Report 2006*, TSO (Cm 6752) paragraph 4.19; also cited in op.cit. *Twenty-Fourth Report 2009*, paragraph 3.9.

⁵⁵ Op.cit. *Twenty-Fourth Report 2009*, paragraphs 3.9 – 3.20.

⁵⁶ Op.cit. *Twenty-First Report 2006*, paragraphs 2.22 – 2.23.

⁵⁷ Reserved Judgment of the Employment Tribunal, Newcastle upon Tyne, *Ms S C Hartley and Others v Northumbria Healthcare NHS Foundation Trust, Unison and other Unions, the Secretary of State for Health, NHS Confederation (Employers) Company Ltd, and the GMB*, 2009

⁵⁸ Op.cit. *Twenty-Fourth Report 2009*, paragraphs 3.19 – 3.22.

⁵⁹ Letter of 26 February 2009 from Nick Adkin, Department of Health, to the Office of Manpower Economics (OME).

all employers is inconsistent with the express provision in AfC for guidance to employers on the appropriate level of payment where the underlying problem is considered to vary across the country.

64. Nor do we agree with the view of the Health Departments⁶⁰ that there must be clear and robust evidence of a recruitment and retention difficulty across all four countries of the UK. The AfC Handbook refers in paragraph 5.3 to “national recruitment and retention pressures”⁶¹, which, interpreting “national” to mean UK, means recruitment and retention pressures in the UK. The requirement that these pressures should exist in all four countries is nowhere mentioned in the AfC Agreement or the Handbook. In considering whether a UK-wide RRP is justified, it is our view that the evidence should be assessed on a UK-wide basis.
65. This overall approach has guided our responses to the specific proposals before us in relation to pharmacists and building craft workers respectively, which are discussed below.

Pharmacists

Background

66. There have been difficulties in recruiting and retaining pharmacists in bands 6 and 7 for a number of years, which we have highlighted in successive reports⁶². After receiving a proposal from Unite for a new national RRP for pharmacists and analysing relevant evidence, we concluded in our *Twenty-Fourth Report* that urgent action was needed to address these difficulties. We recommended a short-term national RRP for pharmacists of £5,000 at the lowest point of AfC band 6, decreasing in stages to £500 at the sixth point of band 7. We recommended that this should be implemented from 1 October 2009, and remain in place for a fixed-term of two and a half years until 31 March 2012⁶³. Our detailed analysis underpinning this recommendation can be found in our *Twenty-Fourth Report*⁶⁴.
67. The Secretary of State, having consulted Ministers in Scotland, Wales and Northern Ireland, rejected our recommendation, for the following reasons⁶⁵.

⁶⁰ Op.cit. Letter of 26 February 2009 from Department of Health to OME; letter of 27 February 2009 from John Hannah, Scottish Government Workforce Directorate, to OME, *Recruitment and Retention Premia*; letter of 2 March 2009 from Derek Jones, Welsh Assembly Government, to OME, *Recruitment and Retention Premia for Pharmacists*; letter of 27 February 2009 from Lorraine Owens, DHSSPS, Northern Ireland, to OME, *Recruitment and Retention Premia for Pharmacists*.

⁶¹ Op.cit. NHS Staff Council, *NHS Terms and Conditions of Service Handbook*, paragraph 5.3.

⁶² Review Body for Nursing and Other Health Professions, *Twenty-Second Report 2007*, TSO (Cm 7029), paragraph 4.38; op.cit. *Twenty-Third Report 2008*, paragraphs 3.14-3.43; op.cit. *Twenty-Fourth Report 2009*, paragraphs 3.23 – 3.81.

⁶³ Op.cit. *Twenty-Fourth Report 2009* paragraph 3.77.

⁶⁴ Op.cit. *Twenty-Fourth Report 2009* paragraphs 3.68 – 3.81.

⁶⁵ House of Commons Official Report (Hansard) 3 July 2009, Volume 495, Part 105, Written Ministerial Statements, 3 July 2009, Column 32WS.

- Recruitment and retention difficulties varied widely in England but were not significant in Scotland, Wales and Northern Ireland, so a national RRP, which would be applied UK wide, was inappropriate.
- In England, local recruitment and retention difficulties would be best addressed by increasing supply and using local recruitment and retention premia where needed alongside other local initiatives to support the training and development of junior pharmacists.
- The additional expenditure that would be required to implement the national RRP was unreasonable at a time when resources available to the NHS and the wider economy were being tightened and efficiency savings required from the NHS increased.

The Secretary of State also outlined wider actions that were being taken to address difficulties retaining junior pharmacists in the NHS.

Evidence from the Parties

Data

68. The four UK Health Departments provided data updates, including the following:

- Number of scientific, therapeutic and technical staff in the NHS in England, including pharmacists, as at 30 September 2008 and in previous years⁶⁶.
- Number of pharmacy staff in the NHS in Scotland as at 30 September 2008 and in the previous year⁶⁷.
- Number of pharmacists in Health and Social Care (HSC) in Northern Ireland, by Agenda for Change (AfC) pay band, as at 31 March 2009 and in previous years⁶⁸.
- Pharmacist vacancies in HSC, Northern Ireland, by grade and by trust as at 31 March 2009, and information about leavers and joiners in 2008/09⁶⁹.
- Number of pharmacists and three-month vacancies for pharmacists in Wales⁷⁰.
- Strategic health authority (SHA) plans for NHS pre-registration pharmacist training places in England from 2007/08 to 2011/12⁷¹; and planned commissions in Wales for 2008/09 to 2010/11⁷².

⁶⁶ Health Departments (September 2009) *Information from the Health Departments Relevant to NHSPRB's Consideration of the Three Year Pay Deal*, Annex A, Table 8, submitted as evidence to NHSPRB.

⁶⁷ Scottish Government Health Directorates, September 2009, *Evidence to the NHS Pay Review Body 2010*, paragraph 5.29 and Tables 16 and 17, submitted as evidence to NHSPRB.

⁶⁸ Op.cit. Health Departments, *Information from the Health Departments Relevant to NHSPRB's Consideration of the Three Year Pay Deal*, Annex A, Northern Ireland Table 2; and Department of Health, Social Services and Public Safety, Northern Ireland (October 2009) *Response to Questions and Points of Clarification from the Review Body*, question 2, submitted as evidence to NHSPRB.

⁶⁹ Ibid. DHSSPS, question 2.

⁷⁰ Op.cit. Health Departments, *Information from the Health Departments Relevant to NHSPRB's Consideration of the Three Year Pay Deal*, Chapter 4, paragraphs 4.9 and 4.21.

- Retention of NHS pharmacists on completion of pre-registration training for each SHA and overall (England)⁷³.
- Initial registrations with the Royal Pharmaceutical Society for Great Britain (RPSGB)⁷⁴; and the Pharmaceutical Society of Northern Ireland⁷⁵.

69. The Departments were not able to provide data on the following.

- The extent to which local RRP's were used for pharmacists: the Department of Health (DH) was examining potential data for England from the Electronic Staff Record (ESR).
- Attrition rates for pre-registration trainee pharmacists in England, Scotland and Northern Ireland. The Royal Pharmaceutical Society of Great Britain (RPSGB) and the NHS Pharmacy Education and Development Committee (PEDC) had advised Health Departments that attrition rates were low. Data were gathered in Wales: these showed almost full completion rates for training in 2008/09⁷⁶.
- Expenditure on locum and agency pharmacists: data were only available for broader groups of staff.
- HSC pre-registration commissions for pharmacists in Northern Ireland: the Department of Health, Social Services and Public Safety (DHSSPS) did not commission training places from the two universities training pharmacists. Places were funded through more general arrangements. DHSSPS did, however, provide details of pre-registration pharmacist placements in the managed sector.

70. Some parties provided initial comments on the *Pharmacy Establishment and Vacancy Survey 2009* (see paragraphs 101-102 below and Annex D)⁷⁷.

- DH provided its initial analysis of data for England from surveys conducted in 2008 and 2009⁷⁸.
- The Scottish Government Health Directorates (SGHD) noted that this was the first time that Scotland had taken part in the survey and that no trend information was therefore available. It was surprised by the survey results

⁷¹ Department of Health (November 2009) *Pharmacy Retention – Follow-up to Discussions at NHSPRB Oral Evidence Session*, Annex A, submitted as evidence to NHSPRB.

⁷² Health Departments (September 2009) *Supplementary Evidence to the NHS Pay Review Body – Retention of Pharmacists*, page 9, submitted as evidence to NHSPRB.

⁷³ Op.cit. Department of Health, *Pharmacy Retention – Follow-up to Discussions at NHSPRB Oral Evidence Session*, Annex B.

⁷⁴ Op.cit. Health Departments, *Supplementary Evidence to the NHS Pay Review Body – Retention of Pharmacists*, page 5.

⁷⁵ Ibid. page 7.

⁷⁶ Op.cit. Health Departments, *Supplementary Evidence to the NHS Pay Review Body – Retention of Pharmacists*, page 9.

⁷⁷ NHS Pharmacy and Education Committee (NHSPEDC), *National NHS Pharmacy Establishment and Vacancy Survey 2009*. This report can be obtained from the NHSPEDC website: www.nhspecd.nhs.uk. The survey report was circulated to the parties in late October 2009 for initial comments in early November 2009.

⁷⁸ Op.cit. Department of Health, *Pharmacy Retention – Follow-up to Discussions at NHSPRB Oral Evidence Session*, Annex C.

- The Department of Health, Social Services and Public Safety (DHSSPS) provided information about possible reasons for some of the survey's findings for Northern Ireland, and discussed technical matters with respect to the findings of different surveys of pharmacist vacancies⁸⁰.
- The Department of Health and Social Services (DHSS) provided its initial analysis of data from the survey for Wales for 2008 and 2009 and provided information about possible reasons for some of the survey's findings⁸¹.
- Unite provided its analysis of data from the survey and responded to the Health Departments' comments⁸².

Health Departments

71. At the Review Body's request, the Health Departments provided updates about actions being taken to help with the recruitment and retention of pharmacists.

72. In England, DH reported that it was addressing the issues about the recruitment and retention of pharmacists highlighted in the *Twenty-Fourth Report*, by:

- the NHS Staff Council updating guidance for employers on the use of local RRP⁸³
- drawing local employers' attention to the Review Body's analysis and recommendation for an RRP;
- improving the supply of pharmacists to the NHS: in particular, SHAs were funding an increased number of pre-registration trainee pharmacist training places in the NHS from 2010;
- encouraging SHAs to build on existing local initiatives to support the training and development of junior pharmacists.

73. Following a report in 2009 by the NHS Workforce Review Team (WRT)⁸⁴, the NHS Staff Numbers Task and Finish Group (TFG)⁸⁵ had been set up. The

⁷⁹ Letter of 13 November 2009 from Dr Ingrid Clayden, Scottish Government Health Directorates, to the NHS Pay Review Body Chair, Professor Gillian Morris, *NHS Pay Review Body: Recruitment of Pharmacists*, submitted as evidence to NHSPRB.

⁸⁰ Letter of 13 November 2009 from Lorraine Owens, Department of Health, Social Services and Public Safety, to OME, *Follow-up to the NHSPRB Oral Evidence Session*, submitted as evidence to NHSPRB.

⁸¹ Letter of 16 November 2009 from Dennis Patrick, DHSS, to OME, *NHSPRB: Pharmacists*, submitted as evidence to NHSPRB.

⁸² Letter of 23 November 2009 from Karen Reay, Unite, to NHS Pay Review Body Chair, Professor Gillian Morris, *Recruitment and Retention of Pharmacists*, submitted as evidence to NHSPRB.

⁸³ NHS Staff Council (November 2009) *Guidance on the use of Local Recruitment and Retention Premia*.

⁸⁴ NHS Workforce Review Team (2009) *WRT Analysis of Recruitment and Retention of Pharmacists at Agenda for Change Bands Six and Seven – Employed by NHS Organisations in England Only*. Discussed in op.cit. *Twenty-Fourth Report 2009*, paragraphs 3.46 – 3.51.

group had made nine recommendations in September 2009 concerning, for example, recruitment to pre-registration pharmacy training from 2010/11, retention of trainees in the NHS upon completion of this training, SHA plans for the future pharmacy workforce and associated training places. The recommendations had been endorsed by the Workforce Availability Policy and Programme Implementation Group (WAPPIG), People Matters Executive Group (PMEG) and Modernising Pharmacy Careers Programme Board (MPCPB)⁸⁶. The TFG would undertake further work and progress would be monitored under the governance arrangements that the Department had set up.

74. The MPCPB had highlighted local initiatives in some SHAs to improve retention of band 6 and 7 pharmacists, including support for training and development such as funding of post-graduate diplomas, protected study time, early advertisement of and recruitment to band 6 and a clearer focus on career intentions and expectations when interviewing to recruit pre-registration pharmacy trainees⁸⁷.
75. In October 2009, the Secretary of State wrote to Unite, outlining actions that were being taken in respect of retaining junior pharmacists⁸⁸. The letter was shared with the Review Body by Unite.
76. In supplementary evidence in November 2009, the Department emphasised its commitment to tackling challenges with respect to pharmacists, but stated that it maintained its view that there was no basis for a national RRP. In England, variances in vacancy rates remained wide between areas, indicating a continued need for locally-tailored solutions. An additional fixed cost at a time when the NHS was facing challenges would not be welcomed by employers. Work by NHSE (see paragraphs 86 and 87 below) suggested that local employers were using a range of initiatives to retain pharmacists: if a national RRP was introduced, this may take away flexibility to implement local solutions.
77. SGHD reported that a Pharmacy Action Plan had been developed for Scotland, which included a focus on workforce and careers and aimed to modernise the career framework for hospital pharmacists in the NHS. The Scottish Hospitals Pharmacists' Vocational Training Scheme would also be reviewed. SGHD intended to increase the number of pre-registration training places from 2011. The procedure for introducing local RRP had also been streamlined, with new guidance issued for local employers.

⁸⁵ Information about the NHS Pharmacist Numbers Task and Finish Group (TFG) and its recommendations is available in op.cit. Department of Health *Supplementary Evidence to the NHS Pay Review Body – Retention of Pharmacists*, page 2 and Annex E.

⁸⁶ Information about the Workforce Availability Policy and Programme Implementation Group (WAPPIG), People Matters Executive Group (PMEG) and Modernising Pharmacy Careers Programme Board (MPCPB) is available in *ibid.* pages 2 and 3.

⁸⁷ *Ibid.* Annex D, *Initiatives that have improved retention [of pharmacists] in the NHS.*

⁸⁸ Letter of 26 October 2009 from the Secretary of State for Health, Andy Burnham, to Karen Reay, Unite, *Improving the Retention of Junior Pharmacists in the NHS.*

78. The Cabinet Secretary for Health and Wellbeing in Scotland had met representatives of Unite and the Guild of Healthcare Pharmacists to discuss the decision not to implement the Review Body's recommendation for a national RRP for pharmacists.
79. In commenting on the *Pharmacy Establishment and Vacancy Survey 2009*, SGHD suggested that if it was the case that vacancy levels for pharmacists were high in Scotland, anecdotal evidence suggested that this was due to a supply issue. The introduction of a national RRP would therefore have little, if any, impact in helping to reduce vacancy levels. SGHD remained of the view that there was no basis for the introduction of a national RRP.
80. DHSS acknowledged a need to increase the numbers of pharmacists trained in Wales to keep the workforce supplied. It highlighted a postgraduate clinical diploma training scheme for band 6 pharmacists in Wales, which it suggested was working well in providing pharmacists with opportunities to move up the pay scale and keep vacancy rates below those in England. In Wales, as in other countries, it was also vital to ensure that career development issues were addressed, so that the pharmacy workforce was capable and competent to meet current and future needs.
81. In commenting on the *Pharmacy Establishment and Vacancy Survey 2009*, DHSS noted that the financial situation of the NHS in Wales was affecting the recruitment of pharmacists. Trusts were reporting lower numbers of applicants for junior pharmacist posts, which was possibly due to an increasing desire by pharmacists who had just completed their pre-registration training to take a break before beginning a postgraduate clinical diploma or MSc degree. The impact of the recruitment problem was being felt in Wales and could potentially cause difficulties in the future for recruitment to more senior pharmacist posts. DHSS also stated that it continued to hold the opinion that the introduction of a national RRP for pharmacists would not solve the current problems.
82. DHSS noted that the survey had highlighted a reduction in band 7 pharmacist posts in Wales. It suggested that possible reasons for this included regrading of posts to band 8 upon appeal; 'grade drift', where inability to recruit to band 7 resulted in posts being regraded or advertised at band 8a to make them more attractive; and posts being lost through trusts not recruiting in order to save money.
83. In Northern Ireland, DHSSPS reported that past actions at an earlier time of severe recruitment and retention problems had included marginally increasing pre-registration HSC training places and introducing a pay supplement. More recently, an undergraduate placement scheme had been established between trusts and two university pharmacy departments, exposing students to HSC as a career path. DHSSPS considered that recruitment and retention problems in the HSC appeared to have eased markedly, but noted that some trusts had frozen recruitment due to financial problems, and that with re-organisation of the HSC some experienced pharmacists had been lost.

84. DHSSPS had also established a working group focusing on career development in hospital pharmacy practice. The emphasis of the group was on skills and career pathways for pharmaceutical staff, rather than numbers.
85. DHSSPS noted that the current economic climate and a decision of the Health Minister in the Republic of Ireland to reduce remuneration for community pharmacists had increased the pool of pharmacists for the NHS in Northern Ireland and made it more difficult for pharmacists from Northern Ireland to find jobs in the Republic of Ireland.

NHS Employers (NHSE)

86. NHSE reported that employers were adopting a variety of local initiatives to improve the recruitment and retention of pharmacists, including funding post-graduate diplomas in clinical pharmacy, providing more structured, rotational training, recent trainees speaking to prospective entrants about the advantages of and opportunities in the NHS, flexible working, new roles and split-posts with community pharmacy, early promotion opportunities (for band 7 posts) and overseas recruitment.
87. In October 2009, NHSE contacted 35 NHS organisations in England to gather information on the recruitment and retention of pharmacists and received responses from 25 of these organisations. NHSE found that:
- Only three trusts had used a local RRP. One trust had offered £3000 for three years and now had no vacancies at band 6; another had found it useful alongside a range of other support and benefits; the third had not seen an impact and had recruited more support workers and technicians to manage service demands.
 - A range of initiatives had been used by trusts, in addition to or instead of a local RRP. In many cases, action was being taken across multiple trusts.
 - Most respondents had reported that they still had difficulties recruiting some grades of pharmacist, but that the measures taken had alleviated some of their problems.
 - The majority of respondents considered it important to continue to seek and use different approaches to attract and retain pharmacists. Financial incentives had not, on their own, resolved recruitment and retention issues.

Staff Bodies

88. The Staff Side noted that the *Twenty-Fourth Report* had recommended a new national RRP for pharmacists, which the Government had not accepted, and emphasised its appreciation of the role of the Review Body in determining pay for NHS staff under its remit and of its independence and rigorous approach in consideration of the evidence from all parties.
89. Unite the Union welcomed the comments and recommendation of a short-term national RRP for pharmacists in the *Twenty-Fourth Report*. Unite believed that the Review Body should consider making a further recommendation that the RRP outlined in the report should be paid from April 2010.

90. Unite agreed with the Review Body's comment that the lack of urgency in agreeing a solution to the shortage of pharmacists in the NHS carried considerable risks, including adverse impact on staff morale and service delivery⁸⁹. Unite was anxious to avoid this.
91. Unite stated that it was dismayed that the Government had rejected the Review Body's recommendation on what Unite believed were spurious grounds. This threatened to damage further the morale of pharmacists and to have a detrimental impact on service delivery. Unite also argued that the outright rejection of the recommendation undermined the authority and independence of the NHSPRB.
92. Unite commented on the reasons given by the Secretary of State for Health for the rejection of the recommendation, summarised in paragraph 67 above. With respect to the recruitment and retention situation in the four countries, Unite noted the high underlying vacancy rate in England; and the findings of a DH survey of strategic health authorities (SHAs)⁹⁰, which Unite said demonstrated that SHAs recognised that recruitment and retention was a national problem that should be dealt with at a national level.
93. Unite suggested that any variation between countries could be dealt with by using the provision in AfC, set out in paragraph 59 above, for guidance to be given to employers on the appropriate level of payment, where the underlying problem was considered to vary. It suggested that there was a reluctance to implement local initiatives at SHA level, as this could have a detrimental impact on services in neighbouring SHAs, through pulling in pharmacists from those SHAs.
94. Unite disagreed with the Secretary of State's argument that expenditure on a new national RRP would be unreasonable, highlighting the costs of locums and loss of NHS-trained pharmacists to the private sector. Unite suggested that the recommendation could actually lead to net savings, based on assumptions about reduced locum costs.
95. Unite considered it crucial to keep the issue on the agenda. It reported that it had met the Secretary of State on 29 July 2009 to discuss the matter.
96. In commenting on Health Departments' evidence and the *Pharmacy Establishment and Vacancy Survey 2009*, Unite argued that the measures outlined by the Health Departments were not sufficient to meet the scale of the problem with pharmacist vacancies at band 6 and 7 and maintained that the vacancy problem was nation-wide.

⁸⁹ Op.cit. *Twenty-Fourth Report 2009*, paragraph 3.74.

⁹⁰ Department of Health Survey of Strategic Health Authority Workforce Directors in December 2008, described in *ibid.* paragraphs 3.38 – 3.45.

Recommendation of the Migration Advisory Committee

97. In October 2009, the Migration Advisory Committee published recommendations to the Government about occupations on a shortage occupation list used for immigration purposes⁹¹. The list had previously been reviewed in spring 2009, when NHS pharmacists remained on the list, but community pharmacists were removed.
98. The Committee's report noted that demand for pharmacists was likely to increase: the role of pharmacists was expanding, the number of pharmacies was growing, and an increasing number were opening long hours. There appeared to be a growing number of training places available, but a large number of vacancies already existed for those trained to fill⁹².
99. The Committee stated that the large pay difference between NHS and community pharmacy made it more difficult to attract and retain pharmacists within the NHS. It agreed with the Review Body that this was an issue that needed to be examined, and, if possible, resolved. In the meantime, it recommended that pharmacists working in the NHS or hospitals – and pre-registration pharmacists training in these posts - should remain on the shortage occupation list because the clearest evidence of shortage in relation to this occupation related to NHS pharmacists⁹³. The Committee also advised that the evidence was still not sufficiently robust for community pharmacists to be included on the list.
100. The Government accepted the Committee's recommendations for a revised shortage occupation list⁹⁴.

Pharmacy Establishment and Vacancy Survey 2009

101. As in 2007 and 2008, OME commissioned the 2009 National NHS Pharmacy Staffing Establishment and Vacancy Survey (PEVS), which was conducted in May 2009⁹⁵. This survey allows analysis of vacancy rates by AfC pay band, which is not possible using other sources of vacancy data⁹⁶. For the first time since 2006 the survey collected data from NHS organisations in Scotland, and a 100% response rate was achieved from NHS organisations in all four countries.

⁹¹ Migration Advisory Committee (2009) *Skilled, Shortage, Sensible: Second Review of the Recommended Shortage Occupation Lists for the UK and Scotland: Autumn 2009*, paragraphs 4.40 – 4.60.

⁹² *Ibid.* paragraph 4.56.

⁹³ *Ibid.* paragraph 4.58.

⁹⁴ Home Office, UK Border Agency, news release (12 November 2009) *Government-approved shortage occupations list for Tier 2 of the points-based system*.

⁹⁵ *Op.cit.* NHSPEDC, *National NHS Pharmacy Establishment and Vacancy Survey 2009*. This report can be obtained from the NHSPEDC website.

⁹⁶ For example, vacancy surveys conducted by the Health Departments.

102. Summary tables showing national-level results from the PEVS since 2006 are in Annex C, Figures 16 and 17, with data by UK region⁹⁷ in Figure 18. The main findings of the 2009 survey are outlined below.

- The total vacancy rate⁹⁸ in the UK at band 6 was 24.7% in May 2009, and had increased in seven out of twelve UK regions compared with 2008⁹⁹. The three-month vacancy rate¹⁰⁰ at band 6 was 20.9% in May 2009, and had increased on the previous year in nine UK regions.
- There was variation between UK regions in vacancy rates at band 6 in 2009: Scotland had the highest figures for total and three-month vacancy rates at band 6 (40.5% and 39.3% respectively) and Wales had the lowest (9.8% and 8.8%). Other UK regions had total vacancy rates at band 6 between 13.7% and 38.8%, and three-month vacancy rates between 11.1% and 37.7%.
- The total vacancy rate in the UK at band 7 was 19% in May 2009, having increased in eight UK regions; the three-month vacancy rate was 14.1%, having increased in ten UK regions.
- Band 7 total vacancy rates in 2009 ranged from 11.5% in Scotland to 27.5% in the East of England. Three-month vacancy rates in band 7 were between 11.2% and 19.7% for all except one region (the South West, 7.4%).
- The researchers noted that, in England, the staffing establishment of band 6 pharmacists had decreased, whereas the staffing establishments at bands 7 and 8a had increased, which supported anecdotal evidence of 'grade drift'¹⁰¹.
- The researchers also suggested that it was unlikely that current numbers of trainees would be sufficient to meet the needs of the future pharmacy workforce.

Conclusions

103. The recommendation in our *Twenty-Fourth Report* for a short-term national RRP for pharmacists in bands 6 and 7 was carefully considered and founded on robust evidence, both in relation to the problems to be addressed and the appropriateness of the recommended pay solution. We are concerned, therefore, that it was rejected.

104. Problems with the recruitment and retention of junior pharmacists are pressing and give rise to significant risks for morale, motivation, workloads and service

⁹⁷ For brevity, "UK region" denotes Scotland, Wales, Northern Ireland and each strategic health authority (SHA) in England.

⁹⁸ The total vacancy rate is defined as the number of posts that were unoccupied by permanent staff on a particular date, 31 May 2009, as a percentage of the funded establishment.

⁹⁹ Scotland did not take part in the 2008 survey, so comparisons with 2009 cannot be drawn.

¹⁰⁰ The three-month vacancy rate is defined as the number of posts that were unoccupied by permanent staff on a particular date, 31 May 2009, that had been vacant for three months or more, as a percentage of the funded establishment.

¹⁰¹ NHSPEDC researchers' informal discussions with senior pharmacists suggested that 'grade drift' was occurring in some NHS pharmacy departments.

delivery. We are not persuaded that the actions being taken by the Health Departments and local employers, though a sensible package of measures, will be sufficient in themselves to prevent further deterioration and address the problems, especially in the short-term. We set out below why we continue to consider, in the light of the latest evidence, that the financial incentive of the recommended national RRP is additionally required.

105. The latest survey data on vacancies, summarised in paragraphs 101-102 above, reinforces our view that problems are UK-wide. New data for England, Wales and Northern Ireland suggest that vacancy rates, while continuing to vary between regions, are a cause for concern across-the-board. Further, the situation appears to have worsened in the last twelve months. Data for Scotland, which were previously unavailable, suggest similar problems. It also remains our view that there is a national labour market for pharmacists, which is a graduate profession¹⁰².
106. We acknowledge that an increase in the supply of pharmacists is expected, and we took this into account in reaching our conclusions in our *Twenty-Fourth Report*. But the benefits will not begin to be realised until 2011 at the earliest, and it cannot be assumed that trainee pharmacists will choose to enter the NHS and remain there upon completion of their pre-registration training. In England, more than a third of pharmacists who completed this training in 2008/09 were not retained in the NHS¹⁰³. If pharmacists are to be encouraged to remain in the NHS upon completion of their training, then pay must be sufficiently attractive in comparison with that on offer in the wider labour market.
107. We are concerned that some parties do not acknowledge that the level of pay for junior NHS pharmacists is an important factor in the current shortage. The NHS is not the dominant employer of pharmacists: there is a large community sector where, as the Migration Advisory Committee has highlighted, demand for pharmacists is increasing, levels of pay are significantly higher than in NHS hospitals, new career opportunities are emerging, and problems with recruitment and retention are less acute. As we have previously highlighted, there is evidence of a salary gap of approximately £10,000 between first level community pharmacy posts and first level entry posts in the NHS¹⁰⁴.

¹⁰² The mobility of newly-registered pharmacists is shown by NHSPEDC (2008) *Pre-Registration Trainee Pharmacist Destination Data*, available from <http://www.nhspecd.nhs.uk/prereg.htm>. Data were collected on the destinations of pre-registration pharmacists in 2007/08: 58.9% of these pharmacists were retained in hospital pharmacy, of which 24.1% moved to a different hospital within the SHA in which they completed their pre-registration training and 18.9% moved to a hospital in a different SHA.

¹⁰³ Op.cit. Department of Health, *Pharmacy Retention – Follow-up to Discussions at NHSPRB Oral Evidence Session*, Annex C.

¹⁰⁴ Op.cit. NHS Workforce Review Team, *WRT Analysis of Recruitment and Retention of Pharmacists at Agenda for Change Bands Six and Seven – Employed by NHS Organisations in England Only*, discussed in op.cit. *Twenty-Fourth Report 2009*, paragraph 3.48. The WRT evidence was consistent with the findings of Incomes Data Services (2007) *A Review of Remuneration of Pharmacists in the Community Retail Sector*, OME, summarised in op.cit. *Twenty-Third Report 2008*, paragraph 3.17.

108. It has been suggested that local measures such as local RRPs would be more appropriate than a new national RRP. We appreciate that local measures are helpful and are also in favour of employers using local RRPs in appropriate circumstances. However, local measures have not adequately addressed the national problems that exist in this case. In our view, the application of local RRPs on an unco-ordinated basis is inefficient.
109. We are concerned that there is anecdotal evidence that employers may be implementing non-transparent pay measures, such as 'grade drift'. As we have previously highlighted, such an approach would undermine the carefully constructed job evaluation system which underpins AfC. It could also harm services and morale if junior pharmacists are promoted before they are fully competent to meet the requirements of higher-banded roles.
110. We appreciate the concerns expressed about the potential costs of implementing our recommendation in the *Twenty-Fourth Report*. It should, however, be noted that the national RRP that we recommended would be targeted on a relatively small number of NHS staff and would be tapered in value and time-limited. Costs could be partly off-set by savings that would be likely to arise from a reduction in turnover and associated recruitment and training costs, and a reduced need for the NHS to engage locum and agency pharmacists and to recruit from abroad. Costs should also be considered in the context of the ongoing costs to the NHS and to patients of the risks that we have identified.
111. Overall, the new evidence reinforces and strengthens our view that a short-term, targeted national RRP is the appropriate means to deal with the current recruitment and retention problem with pharmacists in bands 6 and 7, as part of a balanced package of measures. This letter is not a vehicle for a formal recommendation, and it is only a matter of months since we made our previous recommendation, but we suggest that the Government and other parties may wish to reconsider the matter. For our part, we will continue to monitor the situation and expect to return to the matter in 2010.

Building Craft Workers

Background

112. The Agenda for Change (AfC) Agreement did not include a national RRP for building-craft workers, but noted that "*premia may.... also be agreed locally for building crafts*"¹⁰⁵.
113. In 2007/08, the Union of Construction, Allied Trades and Technicians (UCATT) and Unite (Amicus) proposed a new national RRP for all NHS building craft workers. Our *Twenty-Third Report* concluded that the evidence did not support the case for this¹⁰⁶. Later that year, UCATT repeated its proposal. Our *Twenty-*

¹⁰⁵ Op.cit. DH, *Agenda for Change Final Agreement*, Annex H, paragraph H14; op.cit. NHS Staff Council, *NHS Terms and Conditions of Service Handbook*, Annex R, paragraph 14.

¹⁰⁶ Op.cit. *Twenty-Third Report 2008*, paragraphs 3.54 – 3.55.

Fourth Report noted that no substantive new evidence had come to light and that our position had not changed¹⁰⁷.

Evidence from the Parties

114. UCATT once again proposed a new national RRP for building craft workers. UCATT made the following points about the economic and labour market situation:

- Many NHS building craft workers were low-paid. There had been significant increases in the cost of living for these workers; and a significant rise in pay levels was needed to ensure they did not suffer detriment to their standard of living.
- Not all sectors of the construction industry had been affected by the economic situation in the same way, with housebuilding affected, but other parts of the sector continuing to increase output in the year to December 2008. Prospects for many parts of the industry remained buoyant: for example, there were major public-sector infrastructure projects.
- Growth was expected in the sector over the next four years and additional workers would be needed. There had been increases in the use of agency labour; and migrant workers who had previously filled skills shortages were now returning to their home countries.

115. With respect to NHS building craft workers, UCATT made the following points.

- The findings of the *Greenwich Report*¹⁰⁸ remained valid and provided a clear basis for the payment of a national RRP to NHS building craft workers.
- Statistical and earnings data, for example on staff numbers, recruitment, turnover and earnings, were not available for NHS building craft workers as an individual group. The continued failure by Health Departments, NHS Employers and NHS agencies to provide statistics specific to NHS building craft workers was anomalous and the Review Body should press for comprehensive statistics.
- The NHS building trades workforce was ageing, with a large proportion of staff due to retire in the next decade, and few younger workers coming in. Wider NHS benefits such as sick pay, a stable work environment and paid annual leave, that had previously helped to make up for lower pay, were diminishing and failing to attract younger workers, and redundancies had damaged the image of the NHS as a secure employer.

¹⁰⁷ Op.cit. *Twenty-Fourth Report 2009*, Appendix B, paragraphs 6.1 – 6.2.

¹⁰⁸ In 2007, the NHS Staff Council commissioned independent research to support a review by the Staff Council of the national RRP for maintenance craft workers: White, G., Milsome, S. (2007) *Review of NHS National Recruitment and Retention Payment for Craft Workers: A Report for the NHS Staff Council*, University of Greenwich. This is referred to as the *Greenwich Report*. The report recommended that the national RRP should continue to be paid to maintenance craft workers, and that the payment of a new national RRP to the building trades, or at least the wood trades, should also be considered. The NHS Staff Council subsequently endorsed the continued payment of the existing national RRP for maintenance craft workers, but did not support the introduction of a new national RRP for any NHS building craft workers.

- There was a gulf between NHS building craft workers' pay and private sector pay that continued to grow. UCATT made reference to minimum rates of pay in industry-wide agreements and ONS average earnings for workers in the construction industry, as compared with the minimum and maximum points of AfC band 3.
- Some individual NHS employers were paying local RRP's to building craft workers, which demonstrated the need for additional pay.
- It was unfair that building craft workers were treated differently to maintenance craft workers, who received a national RRP of £3,205¹⁰⁹. For both groups of workers, pay rates were higher in the private sector, there was competition between employers and difficulties with recruitment, the workforce was ageing, and there was a major skills shortage across the industry. These workers often worked side-by-side: it was inequitable, divisive and de-motivating for one group to receive a payment whilst the other did not.

116. UCATT argued that unless national-level measures were brought in to make the NHS a more competitive employer, the NHS would continue to have problems in recruitment, leading to skills shortages, and there would be a need for increased outsourcing of building craft work, which had significant cost implications.

117. We received no written evidence from other parties about these matters. In oral evidence, the four Health Departments indicated that they did not consider that a new national RRP for building craft workers should be introduced.

Conclusions

118. We have consistently emphasised the importance of robust evidence to justify any pay differentiation in respect of specific staff groups. We have carefully considered UCATT's proposal with reference to the approach outlined in paragraphs 59 to 65 above.

119. We agree with UCATT that there is a lack of sufficiently-detailed workforce statistics relating to building craft workers, and other non-clinical staff in the NHS. Our reports have made detailed comments and recommendations about these and wider evidence matters¹¹⁰. The Health Departments have accepted our recommendations and are taking action: we hope that this will yield results and we will continue to monitor progress.

120. It remains our view that the available evidence does not support the case for a national RRP for building craft workers. There has been very little new evidence on the recruitment and retention of building craft workers since we

¹⁰⁹ Op.cit. DH, *Agenda for Change Final Agreement*, Annex H, paragraph H13. The AfC Agreement provided for a fixed-rate national RRP for staff requiring full electrical, plumbing or mechanical crafts qualifications (maintenance craft workers). The value of the RRP is now £3,205: op.cit. NHS Staff Council, *NHS Terms and Conditions of Service Handbook*, Annex R, paragraph 13.

¹¹⁰ Op.cit. *Twenty-Fourth Report 2009*, paragraphs 2.25 – 2.34.

submitted our *Twenty-Third Report*, and a number of our comments in that report remain relevant¹¹¹. We noted that the 15 case studies on which the *Greenwich Report* was based¹¹² showed that vacancy rates were lower than for other NHS jobs and that turnover was much lower among building craft workers than other NHS occupations. We stated that it may be that more extensive research would demonstrate the need for a national RRP, but this could not be assumed. We also stated that where local recruitment and retention difficulties existed it was, of course, open to local employers and staff bodies to agree an RRP at local level.

121. We accept that it seems likely, even in the absence of detailed data, that NHS building craft workers' earnings are lower than in the private sector. However, this alone does not indicate a need for a new national RRP, in the absence of evidence of national recruitment and retention pressures.

122. Our *Twenty-Third Report* noted UCATT's argument that it was inequitable to pay a national RRP to maintenance craft workers when no such payment was made to building craft workers alongside whom they commonly worked. UCATT had also pointed out that this situation may give rise to equal pay claims, a concern which we shared. As we have previously noted, the decision to introduce and subsequently to retain the national RRP for maintenance craft workers were made not by this Review Body, but by the parties to the AfC Agreement and the NHS Staff Council respectively. This was done before these workers were brought into our remit group. Our *Twenty-Third Report* did not consider that the *Greenwich Report* provided sufficient evidence to justify the continuation of the national RRP for maintenance craft workers and suggested that it should be reviewed¹¹³.

123. The employment tribunal in *Hartley* amended the Agenda for Change Agreement to require the provision for the payment of a national RRP for maintenance craft workers to be reviewed by the NHS Staff Council before 1 April 2011, failing which it would cease to have effect on that date. The tribunal specified that further research should be undertaken and considered for the purpose of the review, that this Review Body should be consulted, and that the review should be subject to any necessary consent by us¹¹⁴. We understand that this review is now in preparation.

124. Building craft workers do not fall within the scope of this requirement, but we strongly suggest that in order to address the concern identified in paragraph 122 above, the scope of the research that is undertaken for the NHS Staff Council's review should include building craft workers, in addition to considering the existing national RRP for maintenance craft workers.

¹¹¹ Op.cit. *Twenty-Third Report 2008*, paragraphs 3.54 – 3.55.

¹¹² Op.cit. *Review of NHS National Recruitment and Retention Payment for Craft Workers: A Report for the NHS Staff Council* (Greenwich Report). The report warned that the vacancy and turnover figures in the report were unreliable because sample sizes were so small.

¹¹³ Op.cit. *Twenty-Third Report 2008*, paragraph 3.55.

¹¹⁴ Op.cit. *Hartley Judgment*, paragraphs 16 to 18. The employment tribunal amended op.cit. DH, *Agenda for Change: Final Agreement*, Annex H, by adding to it a new paragraph H13A.

NHS Pay Review Body

10 December 2009